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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----X

3 UNITED STATES OF AMERICA,

4 v.

14 CR 604(VB)

5 SENTENCE

6 TYRONE FELDER,
also known as Man Man,

7 Defendant .
8 -----X

9
10 United States Court house
11 White Plains, New York
April 3, 2019
12

13 Before: THE HONORABLE VINCENT L. BRICCIETTI, District Judge
14

15 APPEARANCES
16

17 GEOFFREY S. BERMAN
United States Attorney for the
18 Southern District of New York
CELIA V. COHEN
19 HAGAN C. SCOTTEN
Assistant United States Attorney
20

21 ANDREW G. PATEL
22 BENJAMIN A. SILVERMAN
Attorneys for Defendant
23
24
25

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1 THE DEPUTY CLERK: United States of America against
2 Tyrone Felder.

3 Will counsel please note their appearance for the
4 record.

5 MS. COHEN: Good afternoon, your Honor.

6 Celia Cohen and Hagan Scotten for the government.

7 MR. PATEL: Good afternoon, your Honor.

8 Andrew Patel and Benjamin Silverman for Mr. Felder.

9 THE COURT: Okay. Have a seat, everybody.

10 This matter is on for sentencing today, the defendant
11 having been found guilty after a jury trial of two counts of
12 carjacking resulting in death, three counts of Hobbs Act
13 robbery or Hobbs Act robbery conspiracy, two counts of
14 discharging a firearm in relation to a crime of violence and
15 two counts of brandishing a firearm in relation to a crime of
16 violence.

17 I've reviewed the following materials in preparation
18 for sentencing: The revised presentence report dated January
19 24th, 2019 prepared by Probation Officer Nicole Brown-Morin.
20 I've reviewed defense counsel's sentencing memorandum dated
21 February 25th, 2019. I've also reviewed the government's
22 sentencing memo dated March 29, 2019. I received two letters
23 today from the government. One was from Mr. Bah, one of the
24 victims in this case, Mr. Bah's son. His name is Elhadji,
25 E-L-H-A-D-J-I, Oumar, O-U-M-A-R, S. Bah. It's dated April 3rd,

1 2019.

2 Have you received a copy of this, as well, Mr. Patel?

3 MR. PATEL: Yes, your Honor.

4 THE COURT: And I also received an e-mail, which was
5 forwarded to me by the government, from Mr. Kane's wife. I'm
6 sure I'm going to mispronounce the name, and I apologize for
7 that, but the first name is spelled M-A-M-E, Mame, M-A-T-Y,
8 last name G-U-E-Y-E. And that's dated April 2nd, 2019.

9 Same question. Have you received a copy of this,
10 Mr. Patel?

11 MR. PATEL: Yes, your Honor.

12 THE COURT: Okay. Has anything else been submitted
13 that I failed to mention?

14 MS. COHEN: No, your Honor.

15 MR. PATEL: No, your Honor.

16 THE COURT: Mr. Patel, have you read the presentence
17 report and discussed it with your client?

18 MR. PATEL: I have, your Honor.

19 THE COURT: Mr. Felder, have you read the presentence
20 report?

21 THE DEFENDANT: Yes.

22 THE COURT: Have you discussed it with your attorney?

23 THE DEFENDANT: Yes.

24 THE COURT: And, Ms. Cohen, I assume you're going to
25 handle this. Have you read the presentence report?

1 MS. COHEN: I have, your Honor.

2 THE COURT: Okay. The calculation of the guidelines
3 is somewhat complicated, but let me just try and summarize what
4 the Probation Department says in the presentence report. It's
5 set forth at pages 8 to 14 of the report, of the revised
6 report.

7 Each of the non-firearms counts is treated as a
8 separate group under the guidelines except for Count Eleven,
9 which is the Hobbs Act conspiracy count, robbery conspiracy
10 count, which is grouped with Counts One, Three, Five and Seven.

11 The highest base offense level is level 43 for each
12 of the carjacking counts.

13 The non-carjacking robbery counts each have a base
14 offense level of 20. And as to Count Three, there's a
15 two-level increase because a victim sustained a bodily injury.
16 That's the Hobbs Act robbery count relating to the minimart in
17 Yonkers.

18 Two levels are added to the group with the highest
19 offense level under the multiple-count adjustment rule such
20 that the combined adjusted offense level for Counts One, Three,
21 Five, Seven and Eleven is level 45.

22 Also, the defendant meets the definition for career
23 offender under Section 4B1.1(a) of the guidelines such that his
24 criminal history category is category VI. Nonetheless, under
25 Application Note 2 to the sentencing table, in Chapter 5, part

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1 A, where there's an offense level higher than 43, it's treated
2 as offense level 43. So even though the offense level as
3 calculated is 45, under the guidelines, it actually gets
4 changed to level 43.

5 At level 43, criminal history category VI, the
6 sentencing range is life imprisonment on Counts One, Three,
7 Five, Seven and Eleven.

8 In addition, as to the firearms counts, which are
9 Counts Two, Four, Six and Eight, the Court is required to
10 impose a mandatory minimum sentence on each count, which must
11 run consecutively to each other count and also consecutive to
12 the entire 26-year sentence imposed on July 28, 2017 in the
13 case tried before Judge Caproni, which is 14 Crim. 546.

14 Counts Two and Eight each carry a ten-year mandatory
15 minimum, and Counts Four and Six each carry a seven-year
16 mandatory minimum.

17 So the guidelines range, according to the presentence
18 report, is life imprisonment followed by 34 years of
19 imprisonment; the supervised release range is one to five
20 years; and the fine range is \$25,000 to \$250,000.

21 I hope I've summarized that accurately from the
22 report. If I haven't, this would be a good time to tell me.

23 Let's start first with the factual statements in the
24 presentence report. Does the government have any objection to
25 the factual statements in the presentence report?

1 MS. COHEN: No, your Honor.

2 THE COURT: Mr. Patel, does defendant have any
3 objection to the factual statements in the presentence report?

4 MR. PATEL: Your Honor, Mr. Felder continues to
5 maintain his innocence of these charges, but we have no
6 objection to the report as it's written.

7 THE COURT: No, of course he has a right to maintain
8 that, but I presided at the trial, and I think that the jury's
9 verdict was clearly correct in light of the evidence that I
10 heard and saw.

11 So the Court adopts the factual statements in the
12 presentence report as the Court's own findings of fact for
13 purposes of sentencing.

14 Does the government object to the guidelines
15 calculation or anything else that's in the report?

16 MS. COHEN: No, your Honor.

17 THE COURT: Same question to you, Mr. Patel. Does
18 the defendant object to the guidelines calculation or anything
19 else in the report?

20 MR. PATEL: No, your Honor.

21 THE COURT: Okay.

22 Based on my review of the presentence report and my
23 own evaluation of the guidelines, I adopt the guidelines
24 calculation in the presentence report and conclude that the
25 final offense level is 43, criminal history category VI, which

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1 yields a sentencing range of life imprisonment on the
2 odd-numbered counts, One, Three, Five, Seven and Eleven. In
3 addition, the Court must impose a total mandatory minimum
4 sentence of 34 years on Counts Two, Four, Six and Eight, all of
5 which must run consecutively to any other sentence imposed in
6 this or any other case.

7 And just for the record, Counts Nine and Ten do not
8 name Mr. Felder. Is that correct? So he was convicted on
9 Counts One through Eight and Eleven.

10 MS. COHEN: That's correct, your Honor. Nine and Ten
11 concern just Mr. Martin.

12 THE COURT: Okay. There's been no motion for any
13 guidelines-based departure from the applicable range.

14 Does the government wish to be heard on sentencing?
15 I've read your submission, of course, but you're welcome to say
16 anything you like.

17 MS. COHEN: Yes. Thank you, your Honor.

18 As the Court is aware, the government doesn't make
19 any sentencing recommendation lightly, and certainly not a
20 recommendation for life imprisonment. Our recommendation here
21 is not based solely on the fact that two innocent lives were
22 taken, although that would justify life imprisonment. We
23 recognize that there are gradations of conduct that can lead to
24 that. It's the particular facts of this case, your Honor, and
25 specifically Mr. Felder's role in the offense, that we believe

1 justifies a sentence of life imprisonment.

2 We talked about some of those factors in our
3 sentencing submission. For example, Felder's leadership role
4 in each of the crimes; his personal and direct responsibility
5 for killing both Mr. Kane and Mr. Bah; the particularly
6 egregious way in which Mr. Kane was killed, effectively
7 executed with a single gunshot to the back of his head on a
8 dirt road; and, finally, Felder's decision to engage in exactly
9 the same conduct exactly one week later.

10 Because we've discussed those factors in our written
11 submission, I'm not going to go over all of them again here,
12 but I do want to focus on the last factor, Felder's decision to
13 commit these crimes a second time. In doing that, I want to
14 take a moment to talk about the robbery victims. Their stories
15 should not get lost in light of the loss of life to Mr. Kane
16 and Mr. Bah.

17 As the Court probably recalls from the video, in both
18 robberies, Martin, Ewing and Smalls enter those stores armed
19 with guns provided by Felder. There is no question that
20 Mr. Felder knew what was going to happen in those stores.

21 At the minimart, Mr. Martin grabbed Ms. Colavecchio.
22 He dragged her into the store, threw her to the ground, and hit
23 her across the face with a gun. At the same time, Mr. Yahia,
24 the owner of the minimart, was trapped behind the register; at
25 times, two guns, sometimes three guns pointed at his head as he

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1 was ordered to empty the register. Meanwhile, the other store
2 employee was forced to lay prone on the ground, a gun also
3 pointed at his head.

4 At the Dunkin' Donuts, Mr. Ewing, Mr. Martin and
5 Mr. Smalls again run into the store armed with guns from
6 Mr. Felder. They leap over the counter and they chase two
7 employees to the back of the store, who hide in the bathroom,
8 holding the door shut, fearing that this might be how they die.

9 Those victims had the courage to come into this
10 courtroom and sit right there and confront Mr. Felder and
11 testify about the terror of those days. That, your Honor, is
12 extraordinary.

13 Their terror, the threat that people just going about
14 their everyday lives might be shot over a few dollars, that
15 apparently stirred nothing in Mr. Felder, the same way that the
16 senseless killing of Mr. Kane apparently stirred nothing,
17 because the Court knows exactly what happened. One week later,
18 Mr. Felder agreed to do the same crimes all over again. The
19 same way as last time, in Tommy Smalls' words. The same way as
20 last time meant random and needless, even extravagant loss of
21 innocent life.

22 When I say random, I'm thinking about the testimony
23 of Mr. Barrie. As the Court might recall, Mr. Barrie was the
24 other livery cab driver who attended the same mosque as
25 Mr. Bah. On August 12th, Mr. Barrie was approached as he drove

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1 down the street, hailed by one man. He pulls over. And this
2 is clear from the video. One man becomes four. They approach
3 the vehicle, and they're clearly looking around to see if
4 there's a camera in the car. Something spoke to Mr. Barrie,
5 and that saved his life. He refused to let Mr. Felder and the
6 others into his car.

7 The next car that pulls over on the video is
8 Mr. Bah's. Mr. Barrie's story epitomizes the randomness, the
9 arbitrariness of Felder's violence. And when I say needless,
10 I'm thinking of Felder shooting Mr. Kane. As we described in
11 our sentencing submission and as Mr. Smalls described on that
12 stand, Mr. Kane had already ceded control of his car. He stood
13 frozen in fear. At that moment, there was no struggle. There
14 was no accidental firing of a gun. There was a purposeful
15 execution of a man that was totally unnecessary. Finally, your
16 Honor, when I say extravagant, I'm thinking of Felder shooting
17 Mr. Bah in the head, dumping his body in the middle of the
18 street and then driving off in the bloody car, only to abandon
19 it a short distance away. This is not to suggest that some
20 successful use of Mr. Bah's car would in any way mitigate his
21 murder, but it underscores how little value Mr. Felder placed
22 on the life of another human being.

23 Your Honor, the total lack of regard for human life
24 evidenced by Felder's decision to repeat on August 12th what
25 had been done exactly one week earlier justifies and, indeed,

1 requires a sentence of life imprisonment. Such a sentence is
2 necessary to reflect the seriousness of the offense, to promote
3 respect for the law, to promote general deterrence and,
4 frankly, your Honor, to protect the public from Mr. Felder.

5 I would like to end by recognizing the victims'
6 family members, some of whom are here today. Members of
7 Mr. Kane's and Mr. Bah's families attended every day of
8 Felder's trial. In the case of Mr. Bah's son, it was sitting
9 in this courtroom that he first learned the man on trial was
10 the man personally responsible for killing his father. In
11 their letters to the Court, Mr. Kane's and Mr. Bah's family
12 members simply ask for justice. We respectfully submit that,
13 in this case, justice means a sentence of life imprisonment.

14 THE COURT: Okay. Thank you, Ms. Cohen.

15 And thank you to the family members of Mr. Bah and
16 Mr. Kane who attended today. I had heard yesterday there was a
17 possibility that one or more of the family members wanted to
18 speak today, but I take it that they're just going to rest on
19 the letters that were submitted.

20 MS. COHEN: That's correct, your Honor.

21 THE COURT: That's fine. They absolutely have the
22 right to be heard if they wish to do so.

23 Okay. Mr. Patel, do you wish to be heard?

24 MR. PATEL: Yes, your Honor.

25 Your Honor, I'll start out near where Ms. Cohen left

1 off.

2 There is nothing that could ever mitigate what
3 happened to Mr. Bah and Mr. Kane. That is not possible. That
4 is not the purpose of mitigation. And there is, unfortunately,
5 although I wish there was, nothing that we could say that would
6 ease the pain of the families sitting in the back of the
7 courtroom. The purpose of mitigation is entirely different.
8 It is facts about Mr. Felder's life that demonstrate he did not
9 have the kind of experiences that we tend to assume as normal,
10 but, rather, as the government acknowledged in their letter, he
11 experienced a childhood of deprivation and neglect that is just
12 unimaginable. And that does mitigate his sentence; not his
13 culpability, but what is the appropriate punishment here.
14 These are horrific crimes, but the question is is there is a
15 possibility of redemption.

16 Mr. Felder has certain God-given abilities that will
17 mature over time. As I said in my letter, Mr. Felder once told
18 me that he's not educated, but he's not stupid, and one of
19 those can be changed. He can be educated and find ways to use
20 his intelligence constructively.

21 One of the things that is in the government's letter,
22 for the lack of a better word, I feel obligated to object to,
23 your Honor. The government wrote, after acknowledging the
24 damage done to children who were raised in the environment
25 Mr. Felder was raised in, wrote that this mitigation does not

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1 explain the conduct. I would submit to your Honor that that is
2 not a proper argument, and let me explain why.

3 There are a series of United States Supreme Court
4 cases, starting with Penry v. Lynaugh, 492 U.S. 302;
5 Tennard v. Dretke, 542 U.S. 274. Most of these cases come out
6 of appeals from the Fifth Circuit, where the Fifth Circuit did
7 exactly what the government said; that, for mitigation, there
8 had to be some nexus between the mitigation. That is, the
9 damage, the mental health, whatever the mitigation was, there
10 had to be some nexus between that and the crime. And the
11 Supreme Court has rejected that argument over and over again.

12 The Second Circuit, in United States v. Fell, 531
13 F.3d 197, 222, in 2008, said very explicitly, and I quote,
14 "Mitigating evidence need not have a nexus to the murder for
15 which he" -- that is the defendant -- "has been convicted."
16 The government, when they make that argument, they're saying,
17 yes, there's mitigating evidence, but, because it doesn't
18 relate to the murder, you should ignore it.

19 I would ask your Honor to consider the facts of
20 Mr. Felder's life in determining what is an appropriate
21 sentence. There is no nexus link required under 3553(a) which
22 requires your Honor to consider Mr. Felder's background in
23 determining an appropriate sentence.

24 What I am asking your Honor to do is to impose a
25 sentence of 60 years; effectively, a sentence of 60 years. It

1 means that Mr. Felder will serve 720 months. He will be in his
2 seventies when he gets out, but he will have the possibility of
3 getting out. He will have that hope. And that hope will
4 hopefully inspire him to get an education in the hope that he
5 will be able to use it. It will inspire him to behave
6 according to the prison rules in the hope that he can get out
7 then. To get out when he's in his late seventies would require
8 him to get credit for time served.

9 The government mentioned in the presentence report
10 that Mr. Felder's had eleven shots, as they say, for almost
11 five years that he's been in the Bureau of Prisons awaiting
12 this day. One of those, your Honor, is for destruction of
13 property. I happen to know a little bit about how that came to
14 be. It's a little bit of a -- let me just tell you.

15 After the trial, Mr. Felder was moved, for reasons
16 that no one understood, from the MDC to the MCC, and he was
17 moved to the SHU in the MCC. The Bureau of Prisons manages
18 groups who might be hostile to each other, shall we say, by
19 keeping them in different facilities. And I called legal
20 counsel at the MCC, Adam Johnson, and I said can we get
21 Mr. Felder back to the MDC because he can never go into general
22 population in the MCC. And Mr. Johnson acknowledged that he
23 had no idea why Mr. Felder was in the MCC and that he could not
24 go into general population because it would be a problem.

25 Because Murphy's law is irrefutable and undeniable,

1 of course, Mr. Felder was released into general population at
2 the MCC, where he was promptly attacked by five people who he
3 managed to fight off and broke a sprinkler in the process of
4 that fight. That is the destruction of property for which he
5 got a shot. And 15 minutes after being released from the
6 Special Housing Unit, he was back in it and, shortly
7 thereafter, he was back in the MDC. And there was no
8 proceeding on that shot.

9 To that end, your Honor, over the almost five years
10 that I've represented Mr. Felder, very few of my visits to him
11 have been in the SHU. He has generally been in the MDC in
12 general population and complying with most of the regulations
13 that he has been required to live by.

14 But I do have a request, your Honor. I would request
15 that your Honor recommend to the Bureau of Prisons that
16 Mr. Felder be designated to the federal correctional complex at
17 Allenwood, which is in Whitetail Deer, Pennsylvania. The
18 federal complex at Allenwood has every imaginable level of
19 facility from a USP to two levels of FCI camp; as your Honor
20 knows, sort of a famous club fed. Not the original. Also,
21 Allenwood is down the block -- not right down the block, but a
22 few miles down Pennsylvania State 15 is Bucknell University,
23 and Bucknell University, for decades, has had an educational
24 program with the USP at Lewisburg and with the facility at
25 Allenwood helping to educate inmates. And it is within the

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1 geographic location, northeast area, under the new First Step
2 Act geographic restrictions it applies. It has every
3 imaginable security option that could be available and is
4 someplace where Mr. Felder could get that education that he
5 hasn't had a chance to get. So we would ask your Honor to make
6 that recommendation.

7 I've submitted to your Honor an order -- a proposed
8 order requesting that Mr. Felder be permitted to appeal his
9 conviction and his sentence, presumably, in forma pauperis,
10 without the payment of fees.

11 THE COURT: Isn't that automatic if he was assigned
12 CJA counsel in the district court?

13 MR. PATEL: No; it is not.

14 THE COURT: I've never had someone ask me to sign an
15 order like this before. Of course he should be allowed to
16 proceed in forma pauperis. I'm not suggesting that's wrong.

17 MR. PATEL: I asked your Honor to sign this order to
18 relieve appellate counsel of the rather egregious process that
19 you have to go through unless it's done by the district court.

20 THE COURT: What's the egregious process? I was
21 appointed because my client is in forma pauperis. How
22 complicated is that?

23 MR. PATEL: If that was the process, there wouldn't
24 be a problem.

25 THE COURT: You know, I did what you did for a long

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1 time.

2 MR. PATEL: Correct.

3 THE COURT: I don't remember it being so complicated.
4 But maybe I've been out of the gate for a while. Sorry.

5 MR. PATEL: It's a whole nother process with a rather
6 complicated form and complete financial disclosure, much
7 simpler than the financial -- much more complex than the
8 financial disclosure. And so just in the name of saving money
9 and expediting things, I would ask your Honor to issue this
10 order.

11 I have done this numerous times. You only have to
12 learn your lesson once by not doing it to realize there's a
13 good reason to do it.

14 THE COURT: I'll sign that order.

15 MR. PATEL: Thank you very much, your Honor.

16 And the other order that I ask your Honor for is to
17 relieve me as counsel for Mr. Felder and have Mr. Silverman
18 remain on to do the appeal.

19 THE COURT: That order I'm not going to sign
20 because -- and I had a hunch that that was contrary to the CJA
21 plan, and I looked it up, and it says that -- this is with
22 respect to CJA. You are the CJA attorney, not Mr. Silverman.
23 I allowed him to be on the case with you, but you were the
24 person that was appointed. And it says: "Counsel," which is
25 you, "must file a timely notice of appeal. While there may be

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1 benefits to maintaining continuity of counsel, trial counsel
2 may determine that the client's interests are best served by
3 new appellate counsel. This should be a significant degree of
4 deference to the position of trial counsel regarding whether,
5 in each matter, continuity is in the best interest of the
6 client and consistent with counsel's professional skills and
7 obligations. Assigned counsel has the duty to file the notice
8 of appeal, but thereafter may seek to be relieved by the Court
9 of Appeals. Counsel shall continue to represent the appellant
10 unless and until he or she has been notified by the Court of
11 Appeals that other counsel has been appointed or that his or
12 her services are no longer required."

13 And I knew that to be the rule, but I wasn't sure
14 where to find it. It's in the CJA plan, paragraph or section
15 VIII.

16 So you're going to have to make that application --
17 I'm not saying that it wouldn't be granted, but you'll have to
18 make that application to the Court of Appeals.

19 MR. PATEL: No problem.

20 Your Honor, as know, we certainly were concerned with
21 continuity of counsel.

22 THE COURT: And there will be continuity of counsel.

23 MR. PATEL: Exactly.

24 THE COURT: So it would be shocking beyond belief if
25 the Court of Appeals denied that application, but it's for them

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1 to decide, not for me. That's really the point.

2 MR. PATEL: Very well.

3 THE COURT: So I don't doubt that there will be
4 continuity of representation, but I think I'm precluded by that
5 rule from granting your request, so I'm going to deny it.

6 MR. PATEL: Okay.

7 Your Honor, to get to the bottom line of this, in
8 spite of -- you know, Mr. Felder has family here today. He has
9 a friend, Unique, who's been with him forever. His half
10 brother is here. His cousins are here. There are people who
11 care about him. He has talents and abilities. He grew up in
12 circumstances that are simply unimaginable. I mean, his older
13 brother was -- who is not much older, who was also a child, was
14 putting food on the table by selling drugs and committing
15 robberies. That was the role model that Mr. Felder grew up
16 with. He can do better. He can learn to do better. And I
17 would ask your Honor to impose a sentence that gives him and
18 his family the hope that, one day, he'll be able to show him
19 and all of us that he can do better on the outside.

20 Thank you, your Honor.

21 THE COURT: Okay. Thank you very much Mr. Patel.
22 And again, you have been on this case for a long time and,
23 consistent with your professional obligations generally and,
24 also, as a member of our Criminal Justice Act panel, you have
25 provided not just competent, but outstanding representation to

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1 your client from day one, and I thank you on behalf of the
2 Court generally for that.

3 Mr. Felder, do you have anything you would like to
4 say or any information that you would like to present before I
5 impose sentence?

6 THE DEFENDANT: No.

7 THE COURT: Okay.

8 Well, let me say first that, in deciding the
9 appropriate sentence in this case, I have considered all of the
10 statutory factors set forth in Section 3553(a) of Title 18.

11 And I'm not going to keep you in suspense,
12 Mr. Felder. I'm going to tell you what sentence I intend to
13 impose, and then I'm going to explain why.

14 Having considered all of those factors, I believe
15 that a sentence of life imprisonment followed by 34 years
16 imprisonment on the 924(c) counts is sufficient, but not
17 greater than necessary to comply with the purposes of
18 sentencing set forth in the statute. And specifically, I
19 intend to impose a sentence of life in prison on Counts One and
20 Seven; twenty years on Counts Three, Five and Eleven with all
21 of the sentences on those five counts to run concurrently; and
22 I also intend to impose a sentence of ten years on each of
23 Counts Two and Eight and seven years on each of Counts Four and
24 Six, all of which will run consecutively to each other and
25 consecutively to the sentences imposed on the other counts;

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1 and, finally, the 34-year term imposed on the gun counts, Two,
2 Four, Six and Eight shall also run consecutively to the
3 312-month, or 26-year, sentence imposed by Judge Caproni in
4 case number 14 criminal 546. My reasoning for this is as
5 follows:

6 I presided at the trial of this case and I heard the
7 evidence. I saw the videos. And I was astonished at the
8 audacity and the brutality of Mr. Felder's crimes, crimes that
9 were deliberate, planned and callous. There's just no question
10 that the seriousness of Mr. Felder's offenses combined with the
11 seriousness of his criminal history require that he spend the
12 rest of his life in prison. No other sentence would be just
13 and no other sentence would protect the public from further
14 crimes by the defendant.

15 I have read Mr. Patel's sentencing memorandum and
16 listened carefully to his argument today, and I have no doubt
17 that Tyrone Felder's a very intelligent man who has the
18 capacity to do good things in his life. I also have no doubt
19 that Mr. Felder is the product of a chaotic and dysfunctional
20 upbringing. But there's some other things about which I have
21 no doubt as well.

22 First of all, I have no doubt that the innocent
23 victims who survived Mr. Felder's crimes will never be the
24 same. I have no doubt about that. A woman who just happened
25 to be sitting outside the minimart was pistol whipped and still

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1 experiences blurriness in her right eye and frequent headaches.
2 The workers at the minimart and the Dunkin' Donuts were all
3 terrorized at gunpoint, and none of them will ever forget that
4 experience for as long as they live. And, of course, the two
5 cab drivers, Maodo Kane and Aboubacar Bah, are deceased.

6 Mr. Kane went to work on August 5th, 2014 and he
7 never came back. Felder came up with a plan to rob a livery
8 cab driver at gunpoint, steal his car and use the car to commit
9 armed robberies. Mr. Kane was the unlucky cab driver. And
10 after directing Mr. Kane to drive to a deserted block in the
11 Baychester area of the Bronx, Felder pulled out a gun and
12 ordered him to get out of the car. Mr. Kane froze. And a
13 co-defendant, Tommy Smalls, pulled Mr. Kane out of the car and
14 onto the street. Felder told Smalls to get back in the car and
15 then he executed Mr. Kane with a single gunshot to the head, at
16 which point Felder got back into the car -- this time, into the
17 driver's street -- and drove the car to Yonkers, where he and
18 his cohorts robbed two different stores at gunpoint and pistol
19 whipped the woman I mentioned earlier. Eventually, Felder and
20 his co-conspirators abandoned Mr. Kane's car in the Bronx,
21 after dousing it in bleach, and then casually -- and casually
22 is the right word -- casually walked away, as if nothing had
23 happened. And I know this because I saw it on the video
24 surveillance evidence that was presented at trial.

25 One week later, Aboubacar Bah went to work and he,

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1 too, never came home. Felder and his buddies convened at
2 Takiem Ewing's apartment and they decided they would hijack
3 another livery cab and rob a jewelry store. Felder supplied
4 the others with guns. This time, Mr. Bah was the unlucky cab
5 driver who picked up Felder and his three friends. They
6 directed him to the Hunts Point section of the Bronx and, just
7 like with the first carjacking, Felder pulled out a gun and
8 ordered Mr. Bah to get out. But Mr. Bah didn't get out.
9 Instead, he stepped on the gas. So Felder shot Mr. Bah in the
10 head, killing him. And the car rolled down the street, chased
11 by Felder and his crew. I know this because I saw it with my
12 own eyes on the video evidence. And eventually the car crashed
13 into a parked car, whereupon Felder pulled Mr. Bah out of the
14 car. Didn't tend to his injuries. He pulled him out of the
15 car, threw him on the ground, jumped in the driver's seat and
16 drove off. A few minutes later, Felder and the others
17 abandoned the car and ran off, which I know because I saw it
18 with my own eyes on the video evidence.

19 And a few days after that, and only because of
20 outstanding police work, all four of them were apprehended;
21 Felder, Martin, Ewing and Smalls.

22 Those are the basic facts. But the one thing that I
23 just can't get out of my mind, honestly, and I think about it a
24 lot, is I just can't get the images of these two executions out
25 of my mind. I just can't. These two men, immigrants from West

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1 Africa, were just trying to earn a living, support their
2 families. And I've read about that, of course, in the letters
3 I received today. Driving cabs in the middle of the night in
4 dangerous neighborhoods in the Bronx. They cared so much about
5 earning an honest living that they were willing to risk being
6 held up and robbed. But they certainly didn't deserve to die.

7 Tyrone Felder, unlike Mr. Kane and Mr. Bah, hasn't
8 worked for an honest living for even one day in his life. And
9 Mr. Felder decided that these two men's lives were so
10 unimportant and so inconsequential that they could be simply
11 executed and their bodies discarded in the street. But their
12 lives were not unimportant or inconsequential. They had
13 families, friends, co-workers. They were the latest in a
14 century's-long line of decent and hard-working immigrants who
15 tried to find a better life for themselves and their families
16 in this country. Their work was meaningful. It provided an
17 important and valuable service to the people of the Bronx.
18 That's who they were. I didn't know them, of course, but I do
19 know that they made far greater contributions to their
20 community than did Tyrone Felder. And the only thing I can do
21 to honor their contributions and their memories is to ensure
22 that justice is done in this case. And the only way to do
23 justice in this case is to impose a sentence that keeps Tyrone
24 Felder away from civilized society for the rest of his life.
25 That is the only way to hold Mr. Felder fully accountable for

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1 his brutal crimes and to prevent him from terrorizing or
2 killing any other members of the law-abiding public.

3 Mr. Patel, doing his job -- and I'm not critical at
4 all, as I said earlier -- wants me to give his client a chance
5 to live a normal life for at least some small portion of the
6 rest of his life. But Mr. Felder is directly and criminally
7 responsible for taking away Mr. Kane's chance and Mr. Bah's
8 chance to live any portion of their lives, normal or otherwise,
9 and, for that, Mr. Felder must spend the rest of his life in
10 jail.

11 The bottom line is that, given the nature and
12 circumstances of the offense and the history and
13 characteristics of the defendant, the sentence I intend to
14 impose is sufficient, but not greater than necessary to reflect
15 the seriousness of the offense, promote respect for the law,
16 provide just punishment for the offense, afford adequate
17 deterrence to criminal conduct and protect the public from
18 further crimes of the defendant.

19 Does either counsel know of any legal reason why the
20 sentence should not be imposed as stated?

21 Ms. Cohen?

22 MS. COHEN: No, your Honor.

23 THE COURT: Mr. Patel?

24 MR. PATEL: No, your Honor.

25 THE COURT: Mr. Felder, please stand.

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1 It is the judgment of this Court that you be
2 committed to the custody of the United States Bureau of Prisons
3 for a total term of life imprisonment plus 34 years
4 imprisonment.

5 Specifically, the sentence is life imprisonment on
6 Counts One and Seven and twenty years imprisonment on Counts
7 Three, Five and Eleven, all of which is to run concurrently.
8 In addition, the sentence is ten years imprisonment on each of
9 Counts Two and Eight and seven years imprisonment on each of
10 Counts Four and Six with the sentences on those counts Two,
11 Four, Six and Eight to run consecutively to each other and
12 consecutively to the sentence imposed on Counts One, Three,
13 Five, Seven and Eleven. Also, the sentence is imposed on
14 counts Two, Four, Six and Eight, the gun counts, shall run
15 consecutively to the 312-month sentence imposed on the
16 defendant that the defendant is currently serving in case
17 number 14 CR 546. Finally, the life imprisonment sentence
18 imposed on Counts One, Three, Five, Seven and Eleven shall run
19 concurrently to the undischarged term of imprisonment in case
20 number 14 CR 546 pursuant to Guidelines Section 5G1.3(d).

21 And in making that determination, I've considered all
22 of the factors set forth in Section 3584 and the factors set
23 forth in Application Note 4 to Guidelines Section 5G1.3(d).

24 I'm not imposing any term of supervised release.
25 Under the circumstances, there would be no point served by

1 doing so.

2 I'm not imposing a fine because the defendant is
3 unable to pay a fine.

4 Restitution is not being sought here.

5 I am imposing the mandatory special assessment of
6 \$100 per count, for a total of \$900, which is due immediately.

7 The foregoing constitutes the sentence of the Court.

8 You may have a seat, sir.

9 Mr. Felder, you have the right to appeal your
10 conviction and sentence, and if you're unable to pay the cost
11 of an appeal, you may apply for leave to appeal without fee.
12 Actually, I've already granted that application.

13 A notice of appeal must be filed within 14 days after
14 the entry of judgment; therefore, if you do wish to appeal, you
15 must advise your attorney to prepare and file a notice of
16 appeal immediately or, if you request, the clerk will
17 immediately prepare and file a notice of appeal on your behalf.

18 There are open counts in underlying indictments; is
19 that correct? This was the S3 indictment.

20 MS. COHEN: Correct, your Honor. There are
21 underlying indictments, which the government now moves to
22 dismiss.

23 THE COURT: How many indictments are there? Is it
24 more than one? I just don't remember which one is which.

25 Well, look, it doesn't matter. All the underlying

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1 indictments -- in other words, everything other than the S3
2 indictment in which Mr. Felder is named -- are dismissed
3 without objection.

4 As far as recommendations to the federal correctional
5 complex at Allenwood, I'm willing to do that. Of course, it's
6 entirely up to the Bureau of Prisons to decide where Mr. Felder
7 should be housed. So I'm willing to recommend it, but I have
8 no particular expectation that the Bureau of Prisons will
9 listen to me. Interestingly, I am familiar with the Bucknell
10 University program that you mentioned because I actually had a
11 client once who was a professional person and he was at
12 Allenwood and he taught at Bucknell, believe it or not, when he
13 was in prison. So I'm aware of that, and I'm willing to
14 recommend that.

15 MR. PATEL: Thank you.

16 THE COURT: All right. Is there anything else that
17 we need to do today?

18 Ms. Cohen?

19 MS. COHEN: No. Thank you, your Honor.

20 THE COURT: Mr. Patel?

21 MR. PATEL: No.

22 Your Honor, we will file the notice of appeal
23 promptly. Thank you.

24 THE COURT: Good luck to you, Mr. Felder.

25 Have a nice day, everybody.